

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION**

JOSHUA DUNN,

Plaintiff,

v.

DERRICK D. SCHOFIELD, et al.,

Defendants.

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No. 1-14-0051

Senior Judge Haynes

O R D E R

Before the Court is the Magistrate Judge's Report and Recommendation (Docket Entry No. 136) to grant Defendant Derrick Schofield's motion to dismiss (Docket Entry No. 111) Plaintiff's claims for his transfer from South Central Correctional Facility ("SCCF") to West Tennessee State Penitentiary ("WTSP") as mooted his request for injunctive relief. The Magistrate Judge also recommends denial of Plaintiff's motion to amend (Docket Entry No. 128) as his proposed amended complaint involves claims against new Defendants and on claims in another district and Plaintiff's motion for a preliminary injunction (Docket Entry No. 129) concerning his incarceration at WTSP.

Plaintiff filed an objection (Docket Entry No. 139), citing Scott v. District of Columbia, 139 F.3d 940, 941-42 (D.C. Cir. 1998). Plaintiff's reliance on Scott is misplaced as there, although the plaintiffs were transferred to another prison, there was an existing permanent injunction applicable to wherever the plaintiffs were incarcerated within that Court's jurisdiction. Plaintiff next cites Oliver v. Scott, 276 F.3d 736, 741 (5th Cir. 2002) for an exception to the mootness rule, contending that his claims are "capable of repetition yet evading review." Yet, this exception applies only where there is "a 'reasonable expectation' or a 'demonstrated probability' that the same controversy will recur involving the same complaining party." Murphy v. Hunt, 455 U.S. 478, 482 (1982) (citing


Weinstein v. Bradford, 423 U.S. 147, 149 (1975)). Plaintiff fails to make such a showing.

Accordingly, after de novo review, the Report and Recommendation is **ADOPTED**, Defendant Derrick Schofield's motion to dismiss (Docket Entry No. 111) is **GRANTED** and Plaintiff's motion to amend (Docket Entry No. 128) is **DENIED without prejudice** to refile in the Western District, and Plaintiff's motion for a preliminary injunction (Docket Entry No. 129) is **DENIED as moot**.

This is the Final Order in this action.

It is so **ORDERED**.

ENTERED this the 18th day of June, 2015.


WILLIAM J. HAYNES, JR.
Senior United States District Judge